

REMARKS

In the 22 May 2007 *Non-Final Office Action*, the Examiner rejects all pending claims, Claims 1-24. Applicant thanks the Examiner with appreciation for the careful consideration and examination given to the Application. In response to the *Office Action*, Applicant provides the below remarks and clarifies certain of the pending claims.

Applicant files this response solely to facilitate prosecution. As such, Applicant reserves the right to present new or additional claims in this Application that have similar or broader scope as originally filed. Applicant also reserves the right to present additional claims in a later-filed continuation application that have similar or broader scope as originally filed. Accordingly, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter.

After entry of this *Response*, Claims 1-24 are pending in the Application. No new matter is believed to be added by this submission. Applicant respectfully asserts that the pending claims are in condition for allowance over the references of record and respectfully requests reconsideration of the claims in light of the following remarks. It is believed that the Application is allowable for the following reasons.

I. Applicant's Claimed Invention Is Allowable Over The References of Record

As the Examiner will recall, Applicant's claimed invention is generally directed to a connection manager of a communication device. According to some embodiments, a connection manager registers with a device driver associated with a network interface. The network interface can monitor a communication device for network access data from another party connection manager. After detecting network access data, the device driver can notify the connection manager. Depending on one or more policies or user input received from a user interface, the connection manager may unregister with the device driver, disable the third party connection manager, or notify the user via the user interface that manual intervention may be required.

As discussed below in more detail, Applicant's claimed invention is patentable over the references of record. This is because the cited references at a minimum fail to teach each and every claimed feature and are not pertinent to Applicant's claimed invention.

II. Applicant's Claims Are Patentable In Accordance With 35 U.S.C. § 103

The Examiner variously rejects the pending claims under 35 U.S.C. § 103(a). More specifically, the Examiner rejects: Claims 1, 8, 9, 10, and 17-18 due to a combination of *Snead* (USPGGPUB 2003/0041179) and *Lucovsky* (USPN 6,868,450); Claims 2 and 3 due to a combination of *Snead*, *Lucovsky*, and *Nakamura* (USPGGPUB 2003/0078898); Claims 4-7, 11-16, and 19-24 due to a combination of *Fraser*, *Hyman*, and *Smith* (USPN 5677823); and Claim 13 due to a combination of *Snead*, *Lucovsky*, and *Jenney* (USPN 6,349,335). Applicant respectfully traverses the various rejections because the cited reference combinations do not support a *prima facie* case of obviousness and in light of the clarifying amendments.

As MPEP § 2143 mandates, and as reemphasized by the Supreme Court's recent *KSR* decision, a *prima facie* case of obviousness requires three specific factual findings. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Lastly, the prior art references, when combined, must teach or suggest all the claim limitations as a whole as required by 35 U.S.C. § 103. *See* MPEP § 2142 & § 2143.

The above specific factual findings must be spelled out by the Examiner and must be made explicit in a non-conclusory, well reasoned fashion to facilitate review and prosecution efforts as noted in *KSR*. Here, the currently pending claims are patentable over the cited combinations for at least several reasons.

A. The Examiner's Office Action Wrongly Construes Claim Terms

First, the Examiner misconstrues certain of Applicant's claim-term features. Indeed, after a careful review of the *Office Action*, it appears that a basis of rejecting certain of the claims hinges on the Examiner's construction of the claimed "connection manager" features. For example, when discussing Claim 1, the Examiner appears to assert that *Snead's* "client applications 202" and "library manager 200" teach Claim 1's "first connection manager" and "second connection manager" features. With respect to these claimed features, Applicant respectfully asserts that the Examiner's construction is misplaced.

While the Examiner is required to construe as broad as possible during examination, such construction has its limits. MPEP § 2111. Indeed, “the pending claims must be given their broadest *reasonable* interpretation *consistent with the specification*.” *Id.* (citing *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000) (emphasis added)). Here, construing the claimed “first connection manager” as “client applications 202” and the claimed “second connection manager” as a “library manager 200” not only goes against the plain meaning of these claimed terms, but it is also not consistent with Applicant’s specification. In other words, construing a “connection manager” as a client application or a library manager is not consistent with Applicant’s specification. For example, as discussed in Applicant’s *Specification*, “a connection manager 112 may assist in discovering networks and connecting a wireless communication device 103” to a network. (*Specification*, ¶ 13). Applicant also makes clear in other *Specification* locations (e.g., ¶ 14, 18, 19, and 21) that the claimed connection managers are not the same as *Snead’s* client application or library manager.

Snead likewise confirms that this is true. Indeed, Snead does not describe its “library manager 200” and “client applications 202” as having the same features or performing the functions of Applicant’s claimed connection managers. Rather, *Snead* states that the “library manager 200 manages numerous classes of removable storage devices.” (*Snead*, ¶ 35). *Snead* also states that the “client applications 202 utilize the library manager 200 to perform numerous functions associated with managing the removable storage devices.” Thus, *Snead’s* disclosure about its library manager and client applications is evidence confirming that Snead does not teach or suggest connection managers performing functions as claimed by Applicant. As such, Applicant respectfully asserts that Snead fails to teach or fairly suggest Applicant’s claimed connection manager features and their associated functions.

B. Snead Does Not Teach Applicant’s Claimed Registration or Providing Notifications Related To Network Access Data Features

Second, *Snead* does not teach or fairly suggest Applicant’s claimed registration or network access data notification provision features. As discussed in Applicant’s *Specification* (and clarified in certain claims) registration of a connection manager with a device driver enables the device driver to monitor a communication device for network access data. (*Specification*, ¶

18). Network access data may, for example, occur when another connection manager attempts to connect to a device driver to utilize a network interface associated with the device driver. (*Id.*). In such a case, when network access data is detected the device driver may notify the connection manager registered with the device driver. (*Id.*). Such a feature advantageously enables the connection manager to be notified with another connection manager is attempts to use the device driver and a possibly associated network interface.

Upon a meticulous review of the *Office Action*, the Examiner appears to assert that *Snead* teaches Applicant's claimed registration feature and Applicant's claimed feature of providing notification of network access data. Applicant respectfully disagrees for several reasons.

Snead does not teach or fairly suggest a connection manager that registers to a driver (see claims for exact language). Instead, *Snead* appears to disclose that applications can register to receive notifications related to "events of interest." (*Snead*, ¶ 38). *Snead's* discussion of a registration process is somewhat vague, but it is clear that "connection managers" do not register with a driver as Applicant claims. Rather, when an event of interest occurs, "the driver calls a conventional I/O manager API to notify applications that are registered. The I/O manager calls all applications that are registered to receive notifications for this particular event." (*Id.*; see also ¶ 40). In short, *Snead* makes clear that only an application and library managers register – not Applicant's claimed "connection managers."

Snead's discussion of providing status data about removable storage devices bears no resemblance to Applicant's claimed network access data notification feature. This is simply because *Snead's* system does not include multiple "connection managers" vying to access a driver. Indeed, *Snead's* removable hardware devices do not try to access *Snead's* library manager or *Snead's* client applications. Rather, the exact opposite occurs with *Snead* in that *Snead* is directed to a "system for asynchronously notifying applications of state changes occurring in removable storage devices." (*Snead*, ¶ 37). This statement confirms that *Snead* does not monitor network access data or provide network access notification features because *Snead* is only concerned with polling for hardware device status information. (*Id.*).

Finally, *Snead* does not teach or fairly suggest providing notification data to a first connection manager when a driver detects network access data from a second connection manager as claimed by Applicant (see claims for exact language). This is simply because

Snead's "library manager" and "client applications" are not competing to use *Snead's* driver. Indeed, it is important to note that the *Snead's* library manager and client applications work in concert – not individually – to obtain data about *Snead's* removable hardware devices. (*Snead*, ¶ 34). This is a critical feature of *Snead's* system confirming that *Snead's* "library manager" and *Snead's* "client application" do not monitor each other or "network access data."

C. The Cited References Are Not Analogous Art

Third, the cited references are not analogous to Applicant's claimed invention, and therefore not prior art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." See MPEP § 2141.01(a) (citing *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992)). Here, the cited combination references are not analogous to Applicant's claimed invention because they are: (1) not in the field of applicant's endeavor and (2) not reasonably pertinent to the problems that Applicant's invention addresses and solves.

Here, the differences between Applicant's invention and the cited references are glaring. Applicant's invention is directed to systems and methods for monitoring and managing connection manager activity attempting to access one or more networks. The cited references simply have nothing to do with managing connection manager activity for network access. Moreover, the cited references are not at all pertinent to the problems solved by Applicant's claimed invention, including managing multiple connection managers attempting to access one or more networks. As such, the cited references are not prior art to Applicant's claimed invention.

D. The Secondary References Do Not Cure *Snead's* Deficiencies

Finally, Applicant respectfully asserts that in asserting the current combination rejections, each element of a *prima facie* case of obviousness has not been satisfied. Indeed, the secondary references do not cure the above-discussed deficiencies of *Snead* and as such the cited combinations do not teach or fairly suggest the claimed subject matter as a whole.

Also, the alleged motivation to combine appears not to come from any reference, the nature of the problem to be solved, or the knowledge of persons of ordinary skill in the art. Rather, the alleged motivation to combine the cited references appears to result from impermissible hindsight or an obvious to try rationale, both of which are not permitted. *See* MPEP § 2145, Section X (A & B). Also, the Examiner provides no reasonable expectation of success that Applicant's claimed invention would result from the cited combinations. This element of a *prima facie* case of obviousness is expressly required by MPEP § 2143.02.

For at least the above reasons, Applicant respectfully asserts that pending Claims 1-24 are patentable over the cited combinations. Applicant specifically asserts that the main combination fails to support a *prima facie* case of obviousness and fails to satisfy the requirements of § 103(a). Accordingly, Applicant believes that all pending claims are allowable. Withdrawal of the § 103(a) rejections to all pending claims is, therefore, respectfully requested.

IV. Fees

Applicant timely submits this *Response* within three months of the 22 May 2007 *Office Action* and with a number of claims less than those previously paid for. Thus, Applicant believes that no additional fees other than terminal disclaimer fee are due. The Commissioner is authorized, however, to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 20-1507.

V. Conclusion

The foregoing is believed to be a complete response to the *Office Action* mailed 22 May 2007. Applicant respectfully asserts that all pending claims are in condition for allowance and respectfully requests passing of this case in due course of patent office business. If the Examiner believes there are other issues that can be resolved by a telephone interview, or there are any informalities remaining in the application which may be corrected by an Examiner's amendment, a telephone call to Hunter Yancey at (404) 885-3696 is respectfully requested.

Respectfully submitted,
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